

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

ELDINA ELEZOVIC, ZEHRA ELEZOVIC,) )  
ANISSA LAUW, LILIANA LEAHY, ) )  
EMILY PHILLIPS, and DISHA SMITH ) )  
Plaintiffs, ) )

Civil Action No: 1:16-cv-00532-TWT

v. ) )

CHALAK-CARROLL BUFORD, LLC, ) )  
d/b/a GENGHIS GRILL ) )  
Defendant. ) )

**MOTION TO APPROVE SETTLEMENT AGREEMENT OR, IN THE ALTERNATIVE,  
PLAINTIFFS' MOTION TO ADD INDISPENSABLE PARTIES THE CHALAK GROUP,  
INC; GENGHIS GRILL FRANCHISE CONCEPTS, LP; AKASH "AL" BHAKTA;  
CHETAN "CHET" BHAKTA; RONAK "RON" PARIKH; NIKONJ "NIK" BHAKTA;  
TONY STEVENS; AND, DR. SANJAY PATEL**

COME NOW Plaintiffs, by and through undersigned counsel and files this their Motion to Approve and Enforce Settlement Agreement or, In the Alternative, Motion to Add Indispensable Parties: The Chalak Group, Inc.; Genghis Grill Franchise Concepts, LP; Akash Bhakta; Chetan Bhakta; Ronak Parikh; Nikonj Bhakta, Tony Stevens; and, Dr. Sanjay Patel showing the court the following:

**FACTS**

On December 8, 2016, Plaintiffs' counsel and Defendants' counsel began settlement negotiations in the above-styled action. (See email attached as Exhibit "A"). On December 9, 2016, Defendants met with bank representatives regarding Defendants' ability to secure funds for a settlement agreement with Plaintiffs. (See emails attached as Exhibit "B"). Between December 9, 2016 and January 4, 2017, email communications continued between Plaintiffs'

counsel Defendants' counsel regarding settlement negotiations, during which time Plaintiffs agreed to accept forty-five thousand dollars (\$45K), from Defendants, in fifteen-thousand dollar (\$15K) increments over the course of three (3) months. (See email attached as Exhibit "C"). On January 4, 2017, Defendants' counsel stated that Defendants would prepare a Joint Motion to Approve Settlement. (See emails attached as Exhibit "D"). On January 9, 2017, Defendants' counsel emailed Plaintiffs' counsel and requested information regarding to whom the settlement check should be written, and requesting Plaintiffs' counsel's W-9 information. (See email attached as Exhibit "E"). On January 12, 2017 Plaintiffs counsel emailed Defendants' counsel, inquiring as to the status of the Joint Motion to Approve Settlement and offering assistance in expediting such motion, which had not yet been received by Plaintiffs. (See email attached as Exhibit "F"). On January 12, 2017, Defendants' counsel stated that the Joint Motion to Approve Settlement had been forwarded to Defendants for review and counsel would attempt to contact Defendants. (See email attached as Exhibit "F"). On January 27, 2017, Plaintiffs' counsel was contacted via telephone by Defendants' counsel who stated that Defendants' were financially unable to pay the agreed settlement amount. (See affidavit attached as Exhibit "G"). On February 6, 2017 Plaintiffs again requested Defendant's response, via email, to Plaintiffs' Second Request to Produce Documents. (See email attached as Exhibit "H"). As of the date of drafting this motion, Defendant has failed to respond to Plaintiffs' discovery request. Through its actions, Defendant Chalak-Carroll has delayed the discovery process and failed to provide information to Plaintiffs regarding the corporate structure and leadership of Chalak-Carroll Buford, LLC d/b/a Genghis Grill, in an attempt to prevent Plaintiffs moving forward with litigation of this matter.

Plaintiffs file their proposed Amended Complaint, adding party defendants, as an exhibit to this motion. (See Plaintiffs' Second Amended Complaint attached as Exhibit "I").

### **APPROVAL AND ENFORCEMENT OF SETTLEMENT**

Plaintiffs recognize that absent this Court's approval, any settlement agreement entered into between themselves and Defendant Chalak-Carroll, there exists no valid, enforceable settlement agreement under the guidelines of the FLSA. In respectfully requesting this Court approve the mutually agreed upon settlement agreement, Plaintiffs also request this Court enforce the settlement agreement between Plaintiffs and Defendant Chalak-Carroll. Defendant does not deny participation in the settlement agreement in question and do not deny the existence of said agreement. Defendant's counsel confirmed the existence of such agreement during the course of a conference call between the Honorable Judge Thrash and counsel for both parties. Defendant Chalak-Carroll only now professes an inability to fund the settlement agreement to which Defendant was the offeror and an active participant. As presented by the aforementioned facts, Defendant Chalak-Carroll met with a member of its financial institution to determine, as Plaintiffs understood, Defendant's financial position relevant to paying the settlement amount in negotiation at the time. Defendant proposed a payment plan, for the payment of the agreed amount of \$45,000, that entailed 3 monthly payments in equal amounts of \$15,000 per month. After Plaintiffs agreed to the amount and terms of payment, Defendant offered to draft the Joint Motion to Approve Settlement. Defendant requested the identity of the party to whom a check for payment need be made. Defendant requested Plaintiffs' counsel's W-9 information. All facts indicate the intent of *both* parties to enter into the settlement agreement Plaintiffs now present for approval and enforcement. It is based upon these facts and showing of mutual intent between

the parties, that Plaintiffs respectfully request this Court approve and enforce the settlement agreement between Plaintiffs and Defendant Chalak-Carroll.

**ALTERNATIVE MOTION TO ADD INDISPENSABLE PARTIES**

In the alternative, if this honorable Court so chooses not to grant Plaintiffs Motion to Approve and Enforce the Settlement Agreement, as was reached between the parties, Plaintiffs' respectfully move this Court for leave to add indispensable parties The Chalak Group, Inc; Genghis Grill Franchise Concepts, LP; Akash Bhakta, Chetan Bhakta; Ronak Parikh; Nikonj Bhakta; Tony Stevens; and, Dr. Sanjay Patel. These parties represent the identity of the corporate entities that control Defendant Chalak-Carroll and the identity of the corporate officers of said controlling corporation(s), The Chalak Group, Inc. Plaintiffs Motion to Add Indispensable Parties is filed beyond the deadline set forth in the applicable scheduling order. Despite the untimeliness of Plaintiffs motion, and as set forth by the facts of the present action, and pursuant to Fed. Rule Civ. P. 16, Plaintiffs show that:

1. they have acted with diligence in pursuit of their claims;
2. that because of Defendant's structuring of its corporation, Plaintiffs, acting with due diligence, could not easily ascertain proper corporate defendants;
3. Defendant Chalak-Carroll was not forthcoming with information related to corporate structuring and the identification of corporate officers;
4. that Plaintiffs had no knowledge prior to January 27, 2017 that circumstances existed to require amendment of Plaintiffs' Complaint;
5. that in light of Defendant's agreement to settle Plaintiffs' claims, Plaintiffs foresaw no cause to pursue claims for personal liability against Defendant's corporate officers; and,

6. that Plaintiffs' proposed amendments will not create delay so as to prejudice Defendant(s).

Plaintiffs have filed separately a brief in support of the foregoing.

**CONCLUSION**

Wherefore, because there is no just cause for delay and no reason to hold any settlement funds, Plaintiffs seek an order from this court approving and enforcing the parties' settlement agreement, ordering that Defendants pay \$ 45,000 to Plaintiff pursuant to the terms of the parties' settlement agreement. Or, in the alternative, Plaintiffs seek leave to amend their Complaint and add indispensable parties, as previously identified, having shown good cause, and so that the interest of justice may be served.

This the 14<sup>th</sup> day of February 2017.

Respectfully Submitted

/s/ Jonathan Sexton  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 14<sup>th</sup> day of February, 2017, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system which will automatically send email notifications of such filing to the following attorneys of record:

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